



Texas Public School Nutrition Policy
(Updated to include all clarifications and exemptions)

SUSAN COMBS, COMMISSIONER

Texas Department of Agriculture
Effective August 1, 2004

In March 2004, the Texas Department of Agriculture (TDA) issued the Texas Public School Nutrition Policy to promote a healthier environment in schools. This policy was the result of a collaborative effort utilizing the expertise from nationally recognized professionals who graciously lent their time and knowledge to this important effort.

The response to TDA’s initiatives to improve the nutrition environments in schools has been overwhelmingly positive. We have received numerous comments and requests for explanations from school administrators, food service personnel, professional associations, parents, and teachers. In response to these comments and suggestions, we have revised the policy to be clearer and to provide schools with more flexibility in the implementation and phase-in dates.

TDA will continue to work closely with schools, communities, health organizations and other groups to provide assistance in this important effort. The support of school boards, administrators and parents across the state is very important to achieve the goal of improving the health of our children.

I. INTRODUCTION

Effective August 1, 2004, all Texas public schools participating in the federal child nutrition programs (National School Lunch Program, School Breakfast Program and the After School Snack Program) must comply with the nutrition policies outlined below. These policies are intended to supplement federal policies defined by the U.S. Department of Agriculture’s Food and Nutrition Services.

Any questions or concerns regarding the Texas Public School Nutrition Policy may be directed to:

Texas Department of Agriculture
Food and Nutrition Division
P.O. Box 12847, Austin, Texas 78711
(888) TEX KIDS
or
healthykids@agr.state.tx.us.

II. DEFINITIONS

The following definitions apply to the Texas Public School Nutrition Policy:

- A. A La Carte:** Refers to individually priced food items provided by the school food service department. These items may or may not be part of the reimbursable meal.
- B. Competitive Foods:** Foods and beverages sold or made available to students that compete with the school's operation of the National School Lunch Program, School Breakfast Program and/or After School Snack Program. This definition includes, but is not limited to, food and beverages sold or provided in vending machines, in school stores or as part of school fundraisers. School fundraisers include food sold by school administrators or staff (principals, coaches, teachers, etc.), students or student groups, parents or parent groups, or any other person, company or organization.
- C. FMNV:** Foods of Minimal Nutritional Value. Refers to the four categories of foods and beverages (soda water, water ices, chewing gum, and certain candies) that are restricted by the U. S. Department of Agriculture under the child nutrition programs. (See Section VI.)
- D. Food Service:** Refers to the school's operation of the National School Program, School Breakfast Program and After School Snack Programs and includes all food service operations conducted by the school principally for the benefit of schoolchildren, all of the revenue from which is used solely for the operation or improvement of such food services.
- E. Fried Foods:** Foods that are cooked by total immersion into hot oil or other fat, commonly referred to as "deep fat frying." This definition does not include foods that are stir-fried or sautéed.
- F. Fruit or Vegetable Drink:** Beverages labeled as containing fruit or vegetable juice in amounts less than 100 percent
- G. Fruit or Vegetable Juice:** Beverages labeled as containing 100 percent fruit or vegetable juice.
- H. School Day:** The school day begins with the start of the first breakfast period and continues until the end of the last instruction period of the day (last bell).

- I. School Meals:** Meals provided under the National School Lunch Program, School Breakfast Program and After School Snack Program for which schools receive reimbursement in accordance with all applicable federal regulations, policies, instructions and guidelines.
- J. Snacks:** Defined as either competitive foods or a la carte (see definitions above), depending on whether or not they are provided by the school food service department.
- K. Trans Fat:** Occurs in foods when manufacturers use hydrogenation, a process in which hydrogen is added to vegetable oil to turn the oil into a more solid (saturated) fat. Trans fats may be found in such foods as margarine, crackers, candies, cookies, snack foods, fried foods, baked goods, salad dressings and other processed foods.

III. ELEMENTARY SCHOOLS

For purposes of this policy, an elementary school campus is defined as any campus containing a combination of grades EE-6. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV) Policy

Elementary school campuses may not serve or provide access for students to FMNV and all other forms of candy at any time anywhere on school premises until the end of the last scheduled class. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

Such foods and beverages may not be sold or given away to students on school premises by school administrators or staff (principals, coaches, teachers, etc.), students or student groups, parents or parent groups, or any other person, company or organization.

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available to students on elementary school campuses. This includes school meals, a la carte and the nutritious classroom snacks.

1. Fats and Fried Foods:

- a)** Schools and other vendors may not serve food items containing more than 28 grams of fat per serving size more than twice per week. The goal is to reduce this to 23 grams of fat per serving size by the start of the 2006-07 school year.

- b) French fries and other fried potato products must not exceed 3 ounces per serving, may not be offered more than once per week, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in “2. Portion Sizes,” below.) We recommend that all such products be baked instead of fried.
- c) Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or deep fat-fried in any way may be served without restriction.
- d) Schools should eliminate frying as a method of on-site preparation for foods served as part of school meals, a la carte, snack lines and competitive foods. This policy should be implemented by the 2005-06 school year in schools that do not need to make equipment changes or facility modifications to do so. A transition period for implementation is allowed for schools needing to make equipment changes or facility modifications, but all schools must be in compliance by the 2009-10 school year.
- e) Foods that have been flash-fried by the manufacturer may be served but should be baked or heated by another method.
- f) Beginning with the 2005-06 school year, schools should include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools should reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products is required by January 1, 2006.)

2. Portion Sizes:

- a) The following maximum portion size restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of school meals, which are governed by USDA regulations.

Food or Beverage	Portion Size
Chips (regular).	1 ounce
Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels.	1.5 ounces
Cookies/cereal bars.	2 ounces
Bakery items (e.g., pastries, muffins). (This excludes items that count as two-bread components served/sold only at breakfast.)	3 ounces

Frozen desserts, ice cream, pudding and jello.	4 ounces
Yogurt.	8 ounces
Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 ounce serving.)	8 ounces
Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 ounce serving.)	16 ounces
Beverages (other than milk) may contain no more than 30 grams total sugar per 8 ounce serving. No limit on non-carbonated, unflavored bottled water.	12 ounces
Frozen fruit slushes (must contain a minimum of 50 percent fruit juice).	6 ounces

- b) The maximum portion size restrictions provided by this policy do not apply where existing contracts require the vending of larger volume containers or package sizes. Contracts and contract renewals executed after March 3, 2004, must expressly comply with this policy.

3. Other:

- a) Fruit and/or vegetables should be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.
- c) It is the goal of this policy that all beverages served in elementary schools would be milk, unflavored water and 100 percent fruit and/or vegetable juice by the start of the 2006-07 school year.
- d) Schools serving chips should use reduced fat (no more than 5 grams of fat per ounce) or baked varieties whenever possible.

C. Competitive Foods and Snacks

An elementary school campus may not serve competitive foods (or provide access to them through direct or indirect sales) to students anywhere on school premises throughout the school day until the end of the last scheduled class. This does not pertain to food items made available by the school food service department.

Elementary classrooms may allow one nutritious snack per day under the teacher's supervision. The snack may be in the morning or afternoon but may

not be at the same time as the regular meal periods for that class. The snack may be provided by the school food service, the teacher, parents or other groups and should be at no cost to students.

The snack must comply with the fat and sugar limits of the Public School Nutrition Policy and may not contain any FMNVs or consist of candy or dessert type items (cookies, cakes, cupcakes, pudding, ice cream or frozen desserts, etc.). Please refer to the attached revised suggestions for nutritious snacks.

IV. MIDDLE/JUNIOR HIGH SCHOOLS

For purposes of this policy, a middle school campus is defined as a campus containing grades 6, 7 and 8. A junior high school campus may contain either grades 7 and 8, or grades 7, 8 and 9. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV) Policy

Middle school and junior high school campuses may not serve or provide access for students to FMNV and all other forms of candy at any time anywhere on school premises until after the end of the last lunch period. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available in school meals, a la carte and competitive foods to students on middle and junior high school campuses.

1. Fats and Fried Foods:

- a) Schools and other vendors may not serve food items containing more than 28 grams of fat per serving size more than twice per week. The goal is to reduce this to 23 grams of fat per serving size by the start of the 2006-07 school year.
- b) French fries and other fried potato products must not exceed 3 ounces per serving, may not be offered more than three times per week, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in "2. Portion Sizes," below.) We recommend that all such products be baked instead of fried.

- c) Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or deep fat-fried in any way may be served without restriction.
- d) Schools should eliminate frying as a method of on-site preparation for foods served as part of school meals, a la carte, snack lines and competitive foods. This policy should be implemented by the 2005-06 school year in schools that do not need to make equipment changes or facility modifications to do so. A transition period for implementation is allowed for schools needing to make equipment changes or facility modifications, but all schools must be in compliance by the 2009-10 school year.
- e) Foods that have been flash-fried by the manufacturer may be served but should be baked or heated by another method.
- f) Beginning with the 2005-06 school year, schools should include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools should reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products is required by January 1, 2006.)

2. Portion Sizes:

- a) The following maximum portion size restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of school meals, which are governed by USDA regulations.

Food or Beverage	Portion Size
Chips (regular).	1 ounce
Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels.	1.5 ounces
Cookies/cereal bars.	2 ounces
Bakery items (e.g., pastries, muffins). (This excludes items that count as two-bread components served/sold only at breakfast.)	3 ounces
Frozen desserts, ice cream, pudding and jello.	4 ounces
Yogurt.	8 ounces
Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 ounce serving.)	8 ounces
Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain	16 ounces

no more than 30 grams total sugar per 8 ounce serving.)	
Beverages (other than milk) and those restricted as FMNVs may contain no more than 30 grams total sugar per 8 ounce serving. No limit on non-carbonated, unflavored bottled water.	12 ounces
Candy bars and packaged candies.	1.5 ounces
Frozen fruit slushes (must contain a minimum of 50 percent fruit juice).	12 ounces

- b) The maximum portion size restrictions provided by this policy do not apply where existing contracts require the vending of larger volume containers or package sizes. Contracts and contract renewals executed after March 3, 2004, must expressly comply with this policy.

3. Other:

- a) Fruit and/or vegetables should be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.
- c) Schools serving chips should use reduced fat (no more than 5 grams of fat per ounce) or baked varieties whenever possible.

C. Competitive Foods

A middle or junior high school campus may not serve competitive foods (or provide access to them through direct or indirect sales) to students anywhere on school premises during meal periods. This does not pertain to food items made available by the school food service department. The competitive foods included in this policy do not include FMNVs, which are not allowed until after the last lunch period.

V. HIGH SCHOOLS

For purposes of this policy, a high school campus is defined as any campus containing a combination of grades 9, 10, 11 and 12. K-12 schools may follow the policy requirements designated for middle and junior high schools.

A. Foods of Minimal Nutritional Value (FMNV)

1. Policy: High schools may not serve or provide access to FMNV during meal periods in areas where reimbursable meals are served and/or consumed. For exemptions and a listing of foods and beverages restricted by the FMNV policy, see Section VI (below).

New contracts and contract renewals executed after March 3, 2004, must expressly prohibit the sale of sugared, carbonated beverages in containers larger than 12 ounces.

2. Goal: It is the Texas Department of Agriculture's goal that, by the 2005-06 school year, no more than 30 percent of the beverages made available through vending machines on high school campuses should be sugared, carbonated soft drinks. Furthermore, it is our goal to limit sugared, carbonated beverages to containers holding no more than 12 ounces.

B. Nutrition Standards

The following specific nutrition standards pertain to all foods and beverages served or made available in school meals, a la carte and competitive foods to students on high school campuses.

1. Fats and Fried Foods:

- a) Schools and other vendors may not serve food items containing more than 28 grams of fat per serving size more than twice per week. The goal is to reduce this to 23 grams of fat per serving size by the start of the 2006-07 school year.
- b) French fries and other fried potato products must not exceed 3 ounces per serving, and students may only purchase one serving at a time. (This does not pertain to potato chips, which are mentioned specifically in "2. Portion Sizes," below.) We recommend that all such products be baked instead of fried.
- c) Baked potato products (wedges, slices, whole, new potatoes) that are produced from raw potatoes and have not been pre-fried, flash-fried or deep fat-fried in any way may be served without restriction.
- d) Schools should eliminate frying as a method of on-site preparation for foods served as part of school meals, a la carte, snack lines and competitive foods. This policy should be implemented by the 2005-06 school year in schools that do not need to make

equipment changes or facility modifications to do so. A transition period for implementation is allowed for schools needing to make equipment changes or facility modifications, but all schools must be in compliance by the 2009-10 school year.

- e) Foods that have been flash-fried by the manufacturer may be served but should be baked or heated by another method.
- f) Beginning with the 2005-06 school year, schools should include a request for trans fat information in all product specifications. Beginning with the 2007-08 school year, schools should reduce the purchase of any products containing trans fats. (Federal labeling of trans fats on all food products is required by January 1, 2006.)

2. Portion Sizes:

- a) The following maximum portion size restrictions pertain to all foods and beverages served or made available to students on school campuses with the exception of school meals, which are governed by USDA regulations.

Food or Beverage	Portion Size
Chips (regular)	1.25 ounces
Chips (baked or no more than 7.5 grams of fat per bag), crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, jerky and pretzels.	1.5 ounces
Cookies/cereal bars.	2 ounces
Bakery items (e.g., pastries, muffins). (This excludes items that count as two-bread components served/sold only at breakfast.)	3 ounces
Frozen desserts, ice cream, jello and pudding.	4 ounces
Yogurt.	8 ounces
Whole milk, flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 ounce serving.)	8 ounces
Reduced fat milk (2 percent or less), flavored or unflavored. (Flavored milks may contain no more than 30 grams total sugar per 8 ounce serving.)	16 ounces
Beverages (other than milk) and those restricted as FMNVs may contain no more than 30 grams total sugar per 8 ounce serving. No limit on non-carbonated, unflavored bottled water.	12 ounces
Candy bars and packaged candies.	1.5 ounces
Frozen fruit slushes (must contain a minimum of 50 percent fruit juice).	12 ounces

- b) The maximum portion size restrictions provided by this policy do not apply where existing contracts require the vending of larger volume containers or package sizes. Contracts and contract renewals executed after March 3, 2004, must expressly comply with this policy.

3. Other:

- a) Fruit and/or vegetables should be offered daily on all points of service. Fruits and vegetables should be fresh whenever possible. Frozen and canned fruits should be packed in natural juice, water or light syrup.
- b) Schools must offer 2 percent, 1 percent or skim milk at all points where milk is served.
- c) Schools serving chips should use reduced fat (no more than 5 grams of fat per ounce) or baked varieties whenever possible.

C. Competitive Foods

High schools may not serve or provide access to competitive foods during meal periods in areas where reimbursable meals are served and/or consumed. This does not pertain to food items made available by the school food service department. All competitive foods sold or provided to students must meet the nutrition standards listed in Section V, B (above) of this policy.

VI. FOODS OF MINIMAL NUTRITIONAL VALUE (FMNV)

Federal regulations prohibit the sale of certain foods, determined to be of minimal nutritional value, in the foodservice area during meal periods.

A. Restricted Foods

Foods and beverages that are restricted from sale to students are classified in the following four categories:

1. **Soda Water:** Any carbonated beverage. No product shall be excluded from this definition because it contains discrete nutrients added to the food such as vitamins, minerals and protein.
2. **Water Ices:** Any frozen, sweetened water such as "...sicles" and flavored ice with the exception of products that contain fruit or fruit juice.
3. **Chewing Gum:** Any flavored products from natural or synthetic gums and other ingredients that form an insoluble mass for chewing.
4. **Certain Candies:** Any processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients that characterize the following types:
 - a) **Hard Candy:** A product made predominantly from sugar (sucrose) and corn syrup that may be flavored and colored, and is characterized by a hard, brittle texture. Includes such items as sour balls, lollipops, fruit balls, candy sticks, starlight mints, after dinner mints, jaw breakers, sugar wafers, rock candy, cinnamon candies, breath mints and cough drops.
 - b) **Jellies and Gums:** A mixture of carbohydrates that are combined to form a stable gelatinous system of jellylike character and are generally flavored and colored, and include gum drops, jelly beans, jellied and fruit-flavored slices.
 - c) **Marshmallow Candies:** An aerated confection composed of sugar, corn syrup, invert sugar, 20 percent water, and gelatin or egg white to which flavors and colors may be added.
 - d) **Fondant:** A product consisting of microscopic-sized sugar crystals that are separated by a thin film of sugar and/or invert sugar in solution such as candy corn or soft mints.

- e) **Licorice:** A product made predominantly from sugar and corn syrup that is flavored with an extract made from the licorice root.
- f) **Spun Candy:** A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.
- g) **Candy Coated Popcorn:** Popcorn that is coated with a mixture made predominantly from sugar and corn syrup.

Note: USDA has approved exceptions for certain products included in the above categories. See TDA, Food and Nutrition Division, Administrators Reference Manual, for the current list of these exemptions.

B. FMNV and Policy Exemptions

1. **School Nurses:** This policy does not apply to school nurses using FMNVs during the course of providing health care to individual students.
2. **Accommodating Students with Special Needs:** Special Needs Students whose Individualized Education Program (IEP) plan indicates the use of an FMNV or candy for behavior modification (or other suitable need) may be given FMNV or candy items.
3. **School Events:** Students may be given FMNV, candy items or other restricted foods during the school day for up to three different events each school year to be determined by campus. The exempted events must be approved by a school official. During these events, FMNV may not be given during meal times in the areas where school meals are being served or consumed, and regular meal service (breakfast and lunch) must continue to be available to all students in accordance with federal regulations.
4. **TAKS Test Days:** Schools and parents may provide one additional nutritious snack per day for students taking the TAKS tests. The snack must comply with the fat and sugar limits of the Public School Nutrition Policy and may not contain any foods of minimal nutritional value or consist of candy, chips or dessert type items (cookies, cakes, cupcakes, pudding, ice cream or frozen desserts, etc.). Please refer to the attached revised suggestions for nutritious snacks.

5. **Instructional Use of Food in Classroom:** For instructional purposes, teachers may use foods as long as the food items are not considered FMNV or candy. Students may consume food prepared in class for instructional purposes. However, this should be on an occasional basis, and food may not be provided or sold to other students or classes. Food provided for students as part of a class or school cultural heritage event for instructional or enrichment purposes would be exempt from the policy. However, FMNV may not be served during meal periods in the areas where school meals are being served or consumed, and regular meal service (breakfast and lunch) must continue to be available to all students.
 6. **Field Trips:** School-approved field trips are exempt from the nutrition policy. A school official must approve the dates and purposes of the field trips in advance.
 7. **Athletic, UIL, Band and Other Competitions:** The nutrition policy does not apply to students who leave campus to travel to athletic, UIL, band or other competitions. The school day is considered to have ended for these students. School activities, athletic functions, etc. that occur after the normal school day are not covered by the policy.
- C. This policy does not restrict what parents may provide for their own child's lunch or snacks. Parents may provide FMNV or candy items for their own child's consumption, but they may not provide restricted items to other children at school. A school may adopt a more restrictive rule, however, as local policy.

VII. HEALTHY NUTRITION ENVIRONMENT

All school cafeterias and dining areas should be healthy nutrition environments. Texas public schools participating in federal child nutrition programs should ensure that all students have daily access to school meals (breakfast and lunch). Schools should not establish policies, class schedules, bus schedules or other barriers that directly or indirectly restrict meal access.

Adequate time should be allowed for students to receive and consume meals, and cafeterias should provide a pleasant dining environment. The minimum recommended eating time for each student after being served is at least 10 minutes for breakfast and 20 minutes for lunch.

We encourage all school districts to adhere closely to the coordinated school health and physical activity components of the Texas Education Code. It is strongly recommended that PE or recess should be scheduled before lunch whenever possible.

VIII. COMPLIANCE AND PENALTIES

The Texas Department of Agriculture (TDA) administers the National School Lunch Program, School Breakfast Program and After School Snack Program through its Food and Nutrition Division. Responsibilities include processing claims for reimbursement, providing special marketing projects and procurement assistance to promote more nutritious eating habits, conducting on-site compliance monitoring and coordinating training through the 20 regional Education Service Centers.

TDA will aggressively enforce and diligently monitor the Texas School Nutrition Policy to ensure compliance. When violations of this policy are noted, TDA will disallow all meal reimbursement for the day and require the school to reimburse the food service account for the lost reimbursement. A documented corrective action plan will be required and will be monitored diligently to ensure continued compliance.